

October 27, 2016

***Ex Parte Notice***

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TWA325  
Washington, D.C. 20554

**Re: In the Matter of Empowering Consumers to Empowering Consumers to Avoid  
Bill Shock, CG Docket No. 10-207; In the Matter of Consumer Information and  
Disclosure Truth-in-Billing Format IP-Enabled Services, CG Docket No. 09-158;**

Dear Ms. Dortch:

This letter is to advise you, in accordance with Section 1.1206(b) of the Commission's rules, that on October 25, 2016, John Breyault and Brian Young of the National Consumers League (NCL)<sup>1</sup> and Jonathan Schwantes of Consumers Union<sup>2</sup> (CU, by phone) met with John Adams, Micah Caldwell, Kurt Schroeder, Richard Smith (by phone) and Mark Stone of the Consumer and Governmental Affairs Bureau (CGB) to discuss the above-captioned proceedings. In a separate

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<sup>1</sup> The National Consumers League, founded in 1899, is America's pioneer consumer organization. Its mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad. For more information, visit [www.nclnet.org](http://www.nclnet.org).

<sup>2</sup> Consumers Union is the policy and mobilization arm of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

meeting, John Breyault and Brian Young met with Irene Wu of the International Bureau (IB) to discuss the same proceedings.

After discussing NCL and CU's record of advocacy at the Commission with regards to bill shock, we briefed staff about the findings and recommendations of NCL's *ex parte* comments calling on the Commission to refresh the record of the bill shock docket.<sup>3</sup> In addition, we cited the following changes in the U.S. wireless marketplace since the FCC's 2011 action addressing consumer bill shock<sup>4</sup>:

- In 2011 only 35 percent of American adults owned a smartphone. By 2015, that number rose to 68 percent;<sup>5</sup>
- Since October 2014, billing complaints have been the third largest source of wireless complaints (12.48 percent) after telemarketing (44.09 percent) and robocall (23.06 percent) complaints. The next largest wireless complaint category, unwanted calls is dramatically smaller at 5.15 percent;<sup>6</sup>
- In 2015 more Americans (73 million) traveled abroad than any other year,<sup>7</sup> compared to 2011 when only 27 million Americans traveled abroad;<sup>8</sup>
- In 2010 smartphone users used an average of 230 megabytes per month.<sup>9</sup> Today, the average consumer uses an average of 2.9 gigabytes of data per month.<sup>10</sup> Mobile data usage is expected to rise to 8.9 gigabytes per month by 2021.<sup>11</sup>

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<sup>3</sup> Comments of the National Consumers League, CG Docket No. 10-207 and CG Docket No. 09-158 (October 12, 2016). Online: [https://ecfsapi.fcc.gov/file/1012336420315/NCL\\_IMR\\_Comments\\_10122016%20\(FINAL\).pdf](https://ecfsapi.fcc.gov/file/1012336420315/NCL_IMR_Comments_10122016%20(FINAL).pdf)

<sup>4</sup> CTIA-The Wireless Association. "CTIA, Federal Communications Commission and Consumers Union Announce Free Alerts to Help Consumers Avoid Unexpected Overage Charges," Oct. 27 2011. Online: <http://www.ctia.org/resource-library/press-releases/archive/ctia-federal-communications-commission-consumers-union-announce-free-alerts>

<sup>5</sup> Anderson, Monica. *Technology Device Ownership: 2015*. Pew Research Center. Pg. 3. Online: [http://www.pewinternet.org/files/2015/10/PI\\_2015-10-29\\_device-ownership\\_FINAL.pdf](http://www.pewinternet.org/files/2015/10/PI_2015-10-29_device-ownership_FINAL.pdf)

<sup>6</sup> Source: FCC complaint data.

<sup>7</sup> LaGrave, Katherine. "More Americans Traveled Abroad in 2015 Than Ever Before," Conde Nast Traveler. March 28, 2016. Online: <http://www.cntraveler.com/stories/2016-03-28/more-americans-traveled-abroad-in-2015-than-ever-before>

<sup>8</sup> Office of Travel and Tourism Industries. *Profile of U.S. Resident Travelers Visiting Overseas Destinations: 2011 Outbound*. International Trade Administration, U.S. Department of Commerce. Pg. 2. Online: [http://travel.trade.gov/outreachpages/download\\_data\\_table/2011\\_Outbound\\_Profile.pdf](http://travel.trade.gov/outreachpages/download_data_table/2011_Outbound_Profile.pdf)

<sup>9</sup> Kellogg, Don. "Average U.S. Smartphone Data Usage Up 89% As Cost Per MB Goes Down 46%," Nielsen. June 17, 2011. Online: <http://www.nielsen.com/us/en/insights/news/2011/average-u-s-smartphone-data-usage-up-89-as-cost-per-mb-goes-down-46.html>

In addition, we addressed press statements made by CTIA regarding the adequacy of the industry's voluntary bill shock protections.<sup>12</sup> Specifically, we noted that currently available data usage monitoring tools may not be intuitive for consumers to use and often require numerous, proactive steps by consumers to avoid IMR-related bill shock. We also noted that carrier billing systems' calculation of data usage may differ from how many data monitoring tools measure usage.

Should you have any questions or would like to discuss this letter or any other issues or importance, please do not hesitate to contact John Breyault, NCL Vice President of Public Policy, Telecommunications and Fraud at [johnb@nclnet.org](mailto:johnb@nclnet.org) or (202) 207-2819.

Respectfully,

A handwritten signature in dark ink, appearing to read "John D. Breyault". The signature is fluid and cursive, with the first name "John" being the most prominent part.

John D. Breyault

Vice President, Public Policy, Telecommunications and Fraud

National Consumers League

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<sup>10</sup> Brandeisky, Kara, "Here's How to Figure Out How Much Cellphone Data You Need," *Time*. June 18, 2015, <http://time.com/money/3920131/cellular-data/>

<sup>11</sup> Ericsson. *Ericsson Mobility Report On the Pulse of the Networked Society*. Pg. 2. June 2016. Online: <http://www.ericsson.com/res/docs/2016/ericsson-mobility-report-2016.pdf>

<sup>12</sup> *Communications Daily*. "National Consumers League Asks FCC to Investigate Bill Shock for International Wireless Calls," October 13, 2016.